

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE

David J. Widi, Jr.

v.

Civil No. 13-cv-536-SM

Strafford County et al.

REPORT AND RECOMMENDATION

In this action, plaintiff David J. Widi, Jr., alleges that he was subjected to the excessive use of force on November 19, 2010, in violation of his Eighth and Fourteenth Amendment rights, and his rights under state law, while he was a federal pretrial detainee incarcerated at the Strafford County Department of Corrections ("SCDC"). Before the court is plaintiff's motion for summary judgment (doc. no. 32), and an addendum to that motion (doc. no. 33). Defendants object (doc. no. 34). Widi's summary judgment motion has been referred to the undersigned magistrate judge for a Report and Recommendation. See LR 72.1.

Discussion

Widi's motion for summary judgment was filed prematurely, as he has asserted in separate filings that he requires additional time to obtain information necessary to adequately

present the arguments and claims therein. See Widi's Mot. to Extend Time (doc. no. 41); Widi's Mot. to Stay (doc. no. 37). The magistrate judge therefore recommends that Widi's motion for summary judgment (doc. no. 32) be denied as premature, without prejudice to Widi refiling or renewing his request for summary judgment prior to the dispositive motion deadline to be rescheduled in this action, pursuant to the Order issued on this date.

To avoid imposing any unnecessary administrative burden on the parties, the district judge should allow both parties the option of renewing the motion and the addendum thereto (doc. nos. 32 and 33), and similarly renewing the objection (doc. no. 34), by filing a notice to that effect, in lieu of refiling the same documents. That abbreviated briefing procedure would not be intended to limit the parties' ability to file a timely, new or revised summary judgment motion or objection, if they so choose.

Conclusion

For the foregoing reasons, the magistrate judge recommends:

1. That the district judge deny plaintiff's motion for summary judgment (doc. no. 32) without prejudice to renewal or refiling on or before the new dispositive motion deadline to be set by the court pursuant to the Order issued on this date; and

2. That the district judge further direct that

plaintiff be permitted, but not required, to renew his summary judgment motion (doc. no. 32), and the addendum thereto (doc. no. 33), simply by filing a notice to that effect on or before the new dispositive motion deadline, and that defendants may renew their objection (doc. no. 34) in the same manner, if they so choose.

Any objections to this Report and Recommendation must be filed within fourteen days of receipt of this notice. See Fed. R. Civ. P. 72(b)(2). Failure to file objections within the specified time waives the right to appeal the district court's order. See United States v. De Jesús-Viera, 655 F.3d 52, 57 (1st Cir. 2011).



Andrea K. Johnstone
United States Magistrate Judge

June 18, 2015

cc: David J. Widi, Jr., pro se
Corey M. Belobrow, Esq.